



## CONGRESS CONSIDERS CIA OVERSIGHT PLANS

For better or for worse, the congressional investigations of the CIA and other intelligence agencies are drawing to a close.

The year-long probes have been marked by dramatic disclosures, confrontations between the executive and legislative branches over the release of classified material and friction within Congress itself on organizational issues.

Although publication of the House Intelligence Committee's final report was blocked by the House Jan. 29 because of the controversy that developed over release of portions of the 338-page document containing classified information, the Senate Select Intelligence Committee is scheduled to release its conclusions March 1 on illegal, improper and unethical activities by the intelligence agencies.

With a mound of evidence on wrongdoing in government already available, Congress is beginning to focus on an agenda of legislative remedies that would: 1) alter existing laws governing intelligence and law enforcement operations, 2) improve congressional oversight of the CIA and the other agencies, 3) restructure the intelligence community and 4) restrict covert operations.

Like the controversial House and Senate investigations themselves, the task is expected to be difficult and the proposed legislation unacceptable to many. Already, the 11-member Senate panel is divided over a bill (S 2893), sponsored by eight of the committee's members, to establish an oversight committee that would monitor the intelligence community on a permanent basis. And in the House, some members feel that because of the turmoil over the select committee's investigation, intelligence reforms are endangered. The House vote to block the panel's final report "destroys any hope in the near future and perhaps in the distant future of the House ever exercising any effective oversight of the executive activities that involve secrecy," according to Richard Bolling (D Mo.).

Beginning a series of hearings Jan. 21 on S 2893 and other related bills, the Senate Government Operations Committee posed a number of questions about the organization and responsibilities of the proposed intelligence committee that have drawn conflicting answers from present and former government officials and members of Congress:

- Should the committee be a joint committee of Congress or a permanent committee of the Senate?
- Should senators and staff serve on a rotating basis?
- Should the panel have jurisdiction over both authorizing legislation and the bills that actually appropriate the money for the intelligence community?
- Should the committee have jurisdiction over domestic intelligence operations?
- Should it be notified before covert actions are initiated by the executive branch?
- Should it have a veto over proposed clandestine operations?

"The answers must be thoughtful and responsible," Abraham Ribicoff (D Conn.), chairman of Government Operations, said at the outset of the hearings.

Although the ad hoc Senate and House committees established in early 1975 to investigate intelligence-related abuses were authorized to make recommendations on ways to better control the intelligence agencies, the permanent Government Operations Committees of the House and the Senate are responsible for drafting and reporting the legislation that would require, by statute, any reorganizations of government agencies and departments or changes in existing law, such as amendments to the CIA's charter. The committees also are responsible for congressional reorganization.

The House panel has not yet scheduled hearings on reform proposals.

Because of the sensitive role of the intelligence community as well as disagreements over how to institute congressional oversight procedures, some members have suggested that to avoid mistakes Congress should establish an intelligence committee, but allow it to resolve the procedural and jurisdictional issues.

Others contend that before anything is done, Congress must have a firm grasp of the intelligence apparatus in the executive branch so that an oversight panel will know how and where the decisions are made.

Still others in Congress would leave the monitoring of federal intelligence activities, at least for the present, to the existing Senate and House panels having jurisdiction over intelligence matters: Appropriations; Armed Services; Foreign Relations and International Relations. They say all the reform proposals submitted so far have serious drawbacks.

Although it does not appear that Congress this year will overhaul the National Security Act of 1947, which established the CIA, it is likely that some new oversight mechanism will emerge during the remainder of the 94th Congress. Warning of the possibility of waning congressional interest in reforming the intelligence structure, Sen. Lowell P. Weicker (R Conn.) told the Senate Government Operations Committee in January that if Congress did not pass a bill "in 1976, you won't have a bill."

### Checking Covert Activities

Disclosures by the intelligence committees in 1975 that the CIA secretly intervened in the internal political affairs of Chile over a 10-year period, and repeatedly attempted to assassinate Cuba's Fidel Castro, have led some members of Congress to the conclusion that the agency should be restricted to its original mandate: intelligence gathering. But it is unlikely the legislation that is finally recommended to the House and Senate will prohibit all covert actions by the agency, despite widespread abhorrence in Congress of many of the CIA's previous clandestine operations.

Testifying before the Senate intelligence panel Dec. 5, former Deputy Secretary of Defense Morton H. Halperin said the United States "is not in such dangerous peril that it

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needs to continue to violate its own principles and ignore its own constitutional system to perpetuate a capability which has led to assassination attempts...and to subversion of all that we stand for at home and abroad."

Rep. Michael J. Harrington (D Mass.) expressed a similar opinion before the House intelligence committee Dec. 11. "The existence of a standing covert action capability in the CIA," he said, "has had disastrous long-term consequences, severely crippling this country as a leader in the world and badly shaking the faith of our people in the integrity of their system."

**House Prospects**

In 1974, before the disclosures of intelligence abuses, an effort in the House to restrain the CIA's foreign operations was opposed overwhelmingly. By a 108-291 vote, House members rejected an amendment offered by Elizabeth Holtzman (D N.Y.) to bar the agency from using appropriated funds to undermine or "destabilize" any other government. Holtzman reintroduced the legislation in bill form (HR 1531) last year, but Rep. Les Aspin (D Wis.), a member of the House intelligence panel, sees little chance of success for this type of measure. "It just would not be possible to get an outright ban through Congress," he said, "and there are some instances" where he thought covert operations might be desirable, "for example, to act against a terrorist group or a government led by a deranged dictator that has gotten possession of nuclear weapons."

**Special Cases**

During hearings held by both intelligence panels in late 1975 on reorganizing the intelligence community, a parade of former government officials also opposed an outright ban on covert activities.

Clark M. Clifford, a former secretary of defense and long-time adviser to several Presidents, including Truman at the time the 1947 National Security Act was drawn up, acknowledged that covert "operations have gotten out of hand," but he advised the Senate committee not to outlaw the operations entirely. And Arthur Schlesinger Jr., an adviser to President Kennedy, recommended that "we retain a stand-by capability for clandestine operations" during emergency situations. But for the present he said the CIA should refrain from covert actions because the nation "has lost all credibility in this field."

Other witnesses at the December hearings, including McGeorge Bundy, who served in both the Kennedy and Johnson administrations, suggested to the House panel that covert operations be used only in the "most exceptional circumstances"—during a war; at times when there was a "critically important need" for intelligence information and when necessary to counter terrorism and threats to nuclear facilities. But Bundy endorsed secret "aid to beleaguered democrats in countries where the continuing right of political choice is directly threatened by extremists."

Senate Select Intelligence Committee Chairman Frank Church (D Idaho), shared that view. In Portugal, where "a bitterly unwanted Marxist regime is being resisted courageously by a people who earlier voted 84 per cent against it, a forcible takeover by the Communist minority, heavily subsidized by the Soviet Union, might be averted by our discreet help to democratic political parties," Church said Dec. 4. "Such operations," he added, "are consistent with the imperative of national survival or with our tradition of free government."

Yet some members questioned the importance and the ethics of secretly channeling funds to political parties and candidates supported by the United States. After it was disclosed in January that the CIA was funding non-Communist politicians in Italy, Rep. Wayne L. Hays (D Ohio) said that he opposed the effort because it "will not work." Others, including Rep. Harrington, agreed. "The whole area of surreptitious support for political causes in other countries has been discredited," he has said.

Although former CIA Director William E. Colby repeatedly insisted that the agency be allowed to engage in covert actions, albeit in a limited way, the agency's special counsel, Mitchell Rogovin, told the House committee Dec. 9 in response to a question by Robert McClory (R Ill.) that the agency would look favorably upon Congress specifying allowable forms of covert action.

A proposal to be formally recommended by the Church committee would prohibit the CIA from engaging in plots to assassinate foreign leaders in peacetime and would bar the agency from attempting to overthrow democratically elected foreign governments. The House intelligence unit is also expected to propose bans on these and other discredited covert actions.

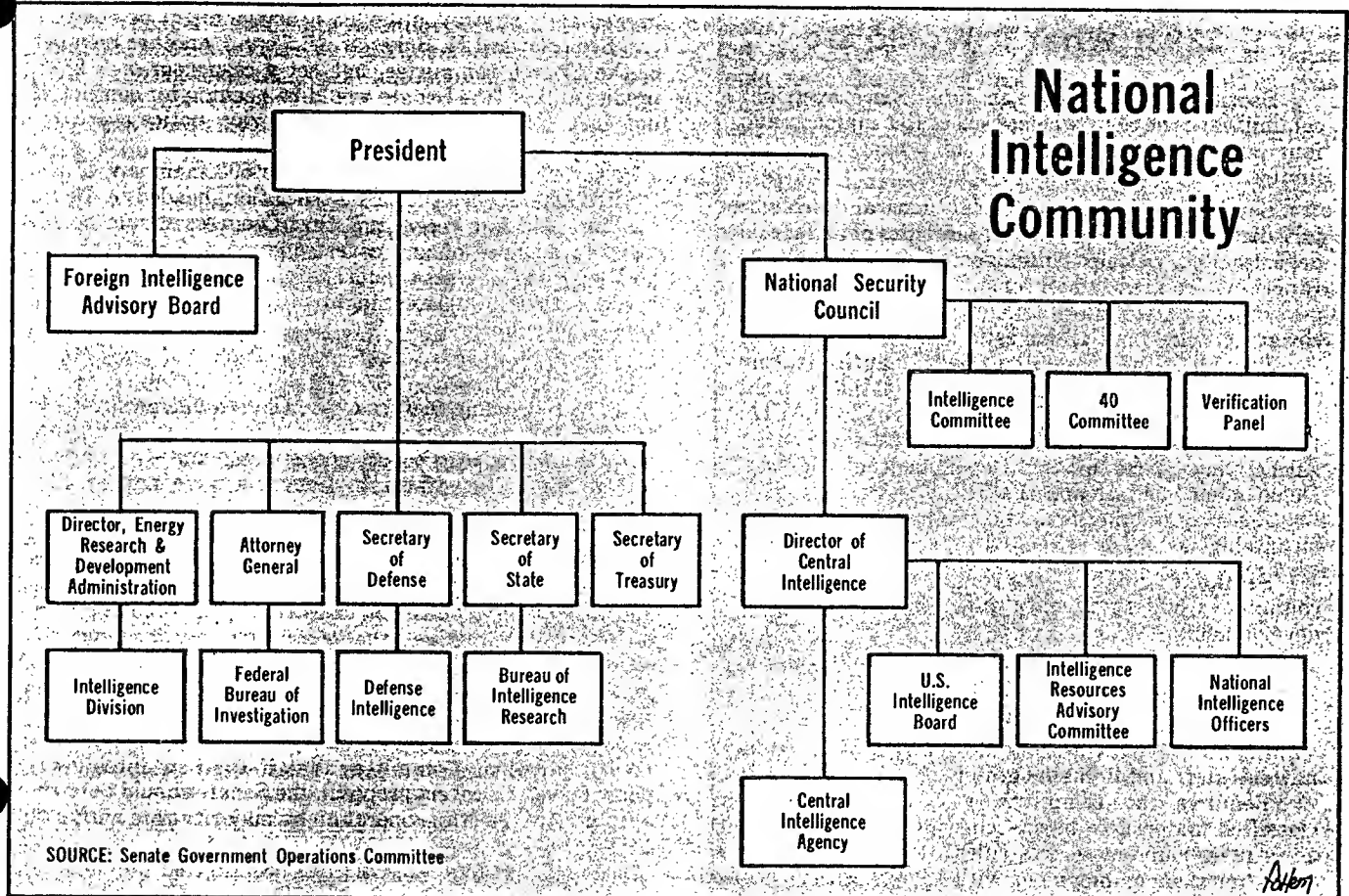
On another front, Sen. Thomas F. Eagleton (D Mo.) is pressing for an amendment to the 1973 War Powers Act, which clarified and defined the President's authority in foreign policy-making, that would broaden the law's coverage to include civilian para-military operations in addition to combat actions by U.S. armed forces covered by the act. The 1973 act, which requires the President to report to Congress within 48 hours on any commitment of U.S. combat forces abroad, "unintentionally encourages a President to use covert civilian combatants in lieu of uniformed personnel," according to Eagleton. This "obvious loophole," he added, could lead to "a new type of presidential war—a war fought secretly with plainclothes soldiers and hired mercenaries."

**Oversight Committee**

To improve congressional oversight of intelligence activities, many in Congress are recommending that either a joint committee or permanent Senate and House panels be established to monitor the CIA and other intelligence and law enforcement agencies.

The legislation (S 2893) introduced by most of the members of the Senate intelligence committee would set up a standing committee with the proviso that its membership and staff be rotated periodically so as to deter the formation of an intelligence "establishment" in Congress. One of the criticisms of the existing congressional oversight of the CIA was that the selected members who were privy to the agency's activities became defenders of its actions and policies rather than watchdogs. (S 2893, box p. 288)

Alternative suggestions have also been introduced. The Senate Government Operations Committee began a series of hearings on the various proposals Jan. 21. The lead-off witness, Senate Majority Leader Mike Mansfield (D Mont.), said he favored an "independent" panel that was "responsible to the Senate and to the Senate alone." Sen. Charles H. Percy (R Ill.) and other members of Government Operations supported this approach, but most executive branch witnesses lined up in favor of a joint committee because they said it would be easier to maintain security and confidentiality.



Rep. Aspin, citing what he called the "facts of congressional life," has cautioned that new oversight procedures should not become the keystone of the intelligence reforms adopted by Congress. The members of any proposed intelligence committee would be limited to a large extent to what the agencies tell them, he said. They would have to work behind closed doors "where critics would not be able to point up foibles like they can with other committees." And the likelihood was that they would lose interest in the subject after the CIA was no longer page one news. The main task, as Aspin saw it, was for Congress and the President to focus on reforming the intelligence community itself through reorganization and program restrictions.

One member who opposed setting up any kind of new oversight apparatus was John G. Tower (R Texas), vice chairman of the Senate Select Intelligence Committee. Breaking with the bipartisan consensus that had previously existed on the investigating committee, Tower said Jan. 21 that he "too, initially leaned toward the creation of a separate oversight committee," but "I am now of the view that haste and simplicity may be the enemy of a solution." Tower declared that oversight should be conducted by the existing committees with responsibility for intelligence activities.

### Notification

One responsibility likely to be given to the new oversight arrangement ultimately approved by Congress is that

of receiving reports required of the executive branch whenever covert actions were undertaken in foreign countries. At issue here is the timing of congressional notification.

In 1974 Congress adopted an amendment to the fiscal 1975 foreign aid bill (S 339—PL 93-559) prohibiting the CIA's use of foreign assistance funds for overseas operations other than in intelligence gathering unless the President found such expenditures necessary for national security and reported this to the "appropriate committees" of Congress in a "timely fashion."

Although some members have insisted that the amendment required the administration to submit a plan for covert operations to Congress before its implementation, others concede that the language is ambiguous. CIA counsel Rogovin told the House intelligence committee that the information did "not necessarily [have to be furnished] beforehand."

The cosponsors of S 2893 recommended that the President give prior notification of a covert operation to an oversight panel, which would then offer its views on the proposal. The President then might 1) modify the program, 2) call it off or 3) go ahead with it.

The executive branch, however, is opposed to this procedure, fearing that leaks of new covert operations would be likely and that it would restrict the President's constitutional right to conduct foreign policy. Colby also objected to the procedure Jan. 23, maintaining that it would be "impractical during a congressional recess or a time of

## **S 2893: What It Would Do**

**Section 4:** Establishes an intelligence oversight committee in the Senate composed of five majority and four minority members, each of whom would be limited to a six-year term.

**Section 5:** Gives the panel general oversight jurisdiction over the intelligence activities of all federal departments. Defines "intelligence activities" as: 1) functions related to information about foreign governments, 2) counterintelligence, 3) clandestine and covert activities and 4) domestic intelligence.

Provides the committee with authorization jurisdiction over the specific agencies that make up the "so-called national intelligence community"—the CIA, the Defense Intelligence Agency, the National Security Agency and parts of the Department of Defense, Department of State and the FBI.

Reserves to other Senate committees prerogatives on intelligence matters related to their jurisdictions.

**Section 6:** Requires the committee to keep other committees and the Senate informed on intelligence developments.

**Section 7:** Prohibits disclosure of intelligence information by the committee without authorization by the panel or by a vote of the Senate.

**Section 8:** Provides for the rotation of the committee's staff and limits length of service to six years.

Requires the committee staff with access to classified material to have security clearances and to agree to be bound by secrecy rules of the Senate during and after their employment with the committee.

**Section 9:** Allows the panel to establish rules and procedures to protect the privacy of individuals.

**Section 10:** Outlines a procedure for the disclosure of classified information if the committee decided that a matter ought to be brought first to the full Senate for a decision, but allows the panel to make disclosures if it chooses to without full Senate consultation.

**Section 11:** Authorizes the committee to invite a representative of the President to attend its closed meetings.

**Section 12:** Provides for the transfer of the House and Senate Select Intelligence Committees' records and files to the new panel.

**Section 13:** Requires the executive branch to furnish the committee information and documents required for fulfilling its responsibilities.

Imposes a legal obligation on the intelligence agencies to keep the committee informed of all intelligence activities in which they are involved.

Requires the executive branch to inform the committee of "significant" covert actions before they are undertaken. Defines significant as "politically sensitive or costly."

**Section 14:** Requires annual congressional authorization and appropriations for intelligence activities over which the panel has legislative jurisdiction.

crisis" and that "committees now get information almost immediately anyway, although hearings might be delayed.

Sen. Howard H. Baker Jr. (R Tenn.), another member of the Church committee, but not a cosponsor of S 2893, predicted that "the Senate would be heading for conflict, if not insurmountable difficulty" if prior notice were required.

Nevertheless 56 per cent of the 600 members of the Retired Intelligence Officers Association, headed by David Phillips, said in a recent poll that Congress should be advised in advance of any covert operation. They took the position that Congress should share in the responsibility for covert actions that later might prove unpopular with the American public.

### **"No Veto"**

The redeeming feature of the Church bill, according to some of its critics, is that it does not give a new intelligence unit veto power over covert operations planned by the administration. But others in Congress have argued that notification without the opportunity to veto is only half a reform.

"We would usurp the role of the President as final arbiter of foreign policy," Church replied to such arguments Jan. 13. But if a President consistently ignored the committee's advice, "then the committee would have the remedy always available to Congress; it would control the purse strings and could pull up on them if it saw fit," he added.

Sen. Mansfield, on the other hand, told the Government Operations Committee that if the new intelligence panel opposed a covert proposal, the Senate should have the authority to reject the operation by majority vote within 30 days.

Among others in Congress committed or leaning toward a veto procedure is Alan Cranston (D Calif.).

He suggested the following possibility to the Government Operations Committee Feb. 2: A majority of the select committee, voting in closed session, would be sufficient to stop a proposed covert action unless the President appealed to the Senate. In that case, a "no" vote by the majority of the Senate, meeting behind closed doors, would be final, and the President could not proceed with the operation. In addition, if three or more members of the committee opposed a covert plan, they could appeal to the Senate for a vote.

### **Leaks and Disclosures**

Because of the leaks of CIA activities and personnel lists during the intelligence investigations, the executive branch and a growing number in Congress have concluded that statutes must be enacted that provide criminal penalties against executive branch employees and congressional aides who disclosed classified information. Members of Congress themselves might be subject to stricter internal disciplinary procedures.

"Our legal controls are not what they should be," according to Colby, who said Jan. 23 that the Justice Department and the CIA had drafted a secrecy law that would be submitted to Congress as soon as it was reviewed by the Office of Management and Budget. The law would cover executive branch and congressional staff members, who would have to take secrecy oaths before gaining access to classified information.

Both Church and Tower favor legal sanctions against government employees who released official secrets; and



this position is shared by members of the Government Operations panel. Church also recommended Jan. 21 that in situations when a senator or staff member disclosed sensitive information, the case automatically would be referred to the Committee on Standards and Conduct, which then would investigate and recommend "appropriate action including, but not limited to, censure or removal from office."

In the House, the intelligence committee staff recommended in its final report leaked to the press Jan. 26 that criminal penalties be levied against anyone who released the names of intelligence agents or other secret information without authorization. The report also called for censure and possible removal from their committee assignments of members who disclosed such information.

It was the House investigation, particularly its Jan. 21 4-8 vote rejecting a motion offered by Dale Milford (D Texas) to delete secret information on covert operations from its final report, that has disturbed not only the White House but also many in Congress. Referring to this action, Sen. Bill Brock (R Tenn.) expressed "disgust over congressional leaks" during the Jan. 23 Government Operations hearing and then asked Colby, "How can we guard against that? We can guard against leaks by the staff."

Colby responded that a single oversight committee for intelligence activities would help maintain control over official secrets. One committee with responsibility for oversight and for the authorization and appropriation of funds for intelligence activities would reduce the number of members given intelligence data, he said. Under the existing congressional procedure, eight committees have access to the CIA's and other intelligence agencies' documents. "The fewer members on oversight the better," Colby declared "By limiting the number you increase a sense of self-discipline...but in the end it is up to each house to discipline its own membership either by formal or informal procedures."

Brock has proposed that in the event any member of a committee of Congress leaked national security information, "he could be suspended when charges were brought by a bipartisan mix of at least one-fifth of the members until the charges were refuted; if they were proven, the person would be expelled from Congress."

Among bills pending in Congress that deal with the secrecy issue is S 1, the Criminal Justice Reform Act of 1975 being considered by the Senate Judiciary Committee. One section of that bill would make it a criminal offense for anyone to disclose the nation's military secrets to a foreign power "knowing" that they could be used to prejudice the safety or interests of the United States.

The use of the word "knowing" in that provision has caused much controversy. Opponents charge that it is a repressive departure from current law, which makes it a crime for anyone to disclose information "with an intent" that it be used to injure the United States.

Opponents also charge that this section of S 1 would in effect create a National Secrets Act limiting what Americans may learn about government policies and practices.

Another controversy has developed over situations in which an oversight committee may want to disclose classified information that the President wishes to keep concealed. Sen. Church has proposed a procedure, which is opposed by the executive branch, that would allow the Senate to be the arbiter.

After the President objected to a disclosure, the matter, under Church's proposal, would be referred to the full Senate for a vote during a closed session. The Senate could refer the matter back to the committee for reconsideration, but if the committee sent it back again to the floor, the issue would have to be decided by an up or down vote.

"There are some who say that once a matter is brought before the full Senate, it will no longer be secret," Church noted, but "in my view, once the Senate accepts...[this process], it would respect the injunction of secrecy."

The House intelligence committee staff's recommendations would allow a permanent oversight committee to decide on its own whether or not to publicly disclose secret documents.

## Reorganization Plans

Throughout its 1975 investigation of the intelligence community, the House committee focused on the quality and cost of secret data collected and analyzed by the CIA and other agencies. One of the conclusions reached by the committee staff was that the U.S. intelligence product could be improved by a number of reorganization steps within the executive branch. It recommended: 1) separating the National Security Agency, which gathers intelligence by electronic methods, from the Defense Department; 2) abolishing the Defense Intelligence Agency and dividing its functions between the CIA and the office of the Secretary of Defense, and 3) requiring that covert activities be approved by the entire National Security Council.

Another reform that has gained backers in Congress is a proposal to establish a new Director of Central Intelligence. Presently, the director of the CIA is expected to do this, but, according to Rep. Aspin, it "has not worked well" because administering the CIA is itself a full-time job.

Clark Clifford elaborated on this point Jan. 26 before the Senate Government Operations Committee. "There are now nine separate intelligence agencies in our country," he said, and "it has turned out that the director of the CIA is merely one individual among a number of equals." Clifford suggested that Congress establish a "director general of intelligence" who would serve as the President's chief adviser on intelligence matters, see that the agencies operated effectively and complied with the law and function as the main contact with new congressional oversight committees.

## FBI Guidelines

To guard against the FBI again drifting into operations aimed at disrupting domestic protest groups and discrediting their leaders, the Senate committee's reform recommendations call for tighter oversight of the bureau and a new charter that would spell out for the first time the types of investigations the FBI could and could not conduct. Although Director Clarence M. Kelley has said that he would "welcome any guidelines," the FBI chief strongly objects to proposals that would limit the bureau to investigations of committed crimes.

Sen. Walter F. Mondale (D Minn.), a member of the intelligence panel, maintains that giving the FBI investigative authority beyond criminal violations would be a "step off a cliff. When you go beyond criminal law and get into political ideas, you're in trouble."

But both Kelley and Attorney General Edward H. Levi have insisted that it is often necessary to gather intelligence on dissidents when there was a "likelihood" that their activities would involve the use of force or violence in committing a federal crime.

"As a practical matter, the line between intelligence work and regular criminal investigations is often difficult to describe," Kelley told the committee. "What begins as an intelligence investigation may well end in arrest and prosecution of the subject."

Richard D. Cotter, who in 1974 retired from the FBI as chief of the intelligence division's research section, has proposed that the bureau be allowed to conduct intelligence investigations whenever available information indicated that a group or individual was planning to use violent methods against the federal government. But the new statute would not permit the FBI to investigate those having a "highly indirect connection" with violent activities of those not advocating violent means to achieve their ends.

Under draft guidelines being considered by the Justice Department, but on which, according to Levi, "there is disagreement," FBI domestic security investigations would be limited to cases where an individual or group intended to accomplish one of five purposes: overthrow of the government; disrupting the activities of foreign governments in the United States; influencing government

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—FBI Director Clarence M. Kelley

policies by interfering by force or violence with government functions or interstate commerce; depriving individuals of their civil rights; and creating domestic violence or rioting when it would require the use of federal armed forces to establish order.

Although Levi said that the guidelines would enable the FBI and the Justice Department to put their own house in order, the Senate committee has felt that statutory language was necessary to "protect the rights of Americans." Commented Mondale: "Guidelines written by the executive branch can be re-written by the executive branch.... They will mean nothing in the face of a willful President or a willful Attorney General."

A second issue that has divided the FBI and members of Congress is how oversight of the bureau should be accomplished by the legislative branch. Members of the Senate Government Operations Committee as well as Majority Leader Mansfield have suggested that any new intelligence oversight panel be given responsibility for reviewing the FBI's intelligence operations in addition to those of the CIA and other agencies.

Criminal matters, however, would remain under the jurisdiction of the Judiciary Committee.

—By David M. Maxfield

## Senate Views:

### MOYNIHAN RESIGNATION

The assessment in Congress of Daniel P. Moynihan's brief career as U.N. ambassador ranged from lavish praise to sharp criticism. Moynihan, who resigned his post Feb. 2, had received nationwide attention for his blunt, often pugnacious and ideological speeches defending the U.S. position in the United Nations. This was especially true with his denunciation of the U.N. resolution passed Nov. 10, 1975, defining Zionism as a form of racism.

Moynihan was nominated by President Ford to be U.N. ambassador on May 22, 1975. He had been ambassador to India in 1973-75 and held other government positions under Presidents Kennedy, Johnson and Nixon.

During his confirmation hearings before the Senate Foreign Relations Committee on June 4, considerable attention was given to a March 1975 magazine article written by Moynihan in which he called for the United States to respond forcefully to the Third World's ideological deprecation of liberal democracies and advocacy of global economic redistribution as a moral right.

Several committee members had endorsed Moynihan's position, but Dick Clark (D Iowa) voiced concern that the article outlined a posture of confrontation that would "make it more difficult for us to take a leadership role with the nonaligned majority."

### Foreign Relations Reaction

Clifford P. Case (R N.J.), ranking Republican on the Foreign Relations panel, commended Moynihan for having made "a unique contribution to stimulative thinking about actions and attitudes of the United Nations."

Robert P. Griffin (R Mich.) called the ambassador's decision to resign regrettable and his departure "a loss to American interests in the United Nations. Like many others," Griffin added, "I thought he was doing a fine job and was saying many of the things that needed to be said."

Jacob K. Javits (R N.Y.) also praised the departing envoy's tactics: "Our relationship with the developing nations of the world will be enhanced by treating them with the refreshing candor which Ambassador Moynihan voiced and which I feel represents the inner feelings of the American people toward the United Nations."

Clark was the committee member most critical of Moynihan, saying that he had "a decidedly negative impact on our relations with the developing nations, particularly the African nations. This has already hurt our diplomatic initiatives on the Angola situation, and I think it's going to make it more difficult for us to deal with the developing nations generally for years to come."

The problem with Moynihan, Clark said, was his style rather than the substance of what he said. "Our diplomatic representative in the United Nations should be stressing cooperation, not confrontation," he added. "I hope Mr. Moynihan's successor will be more willing and able to follow such a course."

Charles H. Percy (R Ill.) also faulted Moynihan's style as U.N. envoy. Looking toward his replacement, Percy said: "We do need a man who is forthright, who can speak out, ...but we also need a man who emphasizes the end result that we wish to achieve rather than the technique in getting us here."

The U.N. post requires Senate confirmation.

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# The Intelligence Business

President Ford is about to add his own plan to a broad range of proposals for managing government intelligence operations, developed after a year-long inquiry into American intelligence activities. We offer today a representative sampling of such proposals dealing with one or another aspect of the overall problem of conducting secret intelligence activities in a democratic society. The first selection is from a Chicago Sun-Times editorial of Feb. 1 headed, "A plan to save democracy by dismembering the CIA." The second, by columnist Tom Braden, formerly an official of the CIA, assays the need for covert operations. In the third, CIA counsel Mitchell Rogovin addresses the constitutional implications of secrecy. In the fourth, Senate CIA investigator Frank Church responds to Rogovin. The fifth is a suggestion, his own, by Army Major F. Douglas Mehle, a Pentagon intelligence officer.

## ROGOVIN:

The intelligence committee has learned that the operation of an intelligence service within the Constitution is a responsibility to be shared with Congress. But it still remains for the parties to learn how to accommodate each other's legitimate needs.

Oversight is, in essence, the congressional power to ascertain constantly that the intelligence agencies are operating in accordance with the laws. Simply defined, congressional oversight means that "there shall be no surprises."

The watchdog function of Congress will be effective only if the oversight committee is privy to the CIA's secrets. The committee, however, will only become privy to such secrets if the agency is satisfied that the committee

can keep secrets. But the committee does not exist simply to act as a receptacle for secrets. It has a dual, and paradoxical, function: to disclose information the committee deems to be in the public interest.

Here is the rub: the contradiction between the committee's duty to receive secrets and retain the confidence of the intelligence community, and to report to Congress and the people on the community's secret work.

Our constitution suggests an answer: If the Congress is to overrule the President, this should be done by a vote of two thirds of both houses—the number required to override a veto. It must be recognized that the nation's secrets are not the private property of any committee, the Congress or the executive branch.

Procedures should be established for a member to appeal an executive branch decision that bars disclosure to an oversight committee and, if necessary, to the whole house of Congress concerned—in executive session.

Serious thought must be given to sanctions against those who are entrusted with secrets and who then leak them.

We must face the fact that as a nation we do have legitimate secrets. Unauthorized disclosure by either branch, which amounts to a de facto declassification, is an unacceptable alternative.

There must be a decision for those secrets worth keeping and a system for those entrusted with secrets to measure their